

DISTRICT OF NEW JERSEY
UNITED STATES BANKRUPTCY COURT

Caption in Compliance with D.N.J. LBR 9004-1(b)

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GROSS POLOWY, LLC
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Attorneys for Creditor Nationstar Mortgage,
LLC d/b/a Mr. Cooper as servicing agent for
U.S. Bank National Association, as Trustee, for
Merrill Lynch Mortgage Investors Trust,
Mortgage Loan Asset-Backed Certificates, Series
2007-SD1

In Re:

BONNIE ROTHENBERGER

Debtor(s).

Case No.: 19-31339-rg

Hearing Date: April 1, 2020

Judge: Rosemary Gambardella

Chapter: 13

**CERTIFICATION IN SUPPORT OF MOTION FOR RELIEF FROM AUTOMATIC
STAY PURSUANT TO 11 U.S.C. §362(D)**

Nationstar Mortgage, LLC d/b/a Mr. Cooper as servicing agent for U.S. Bank National Association, as Trustee, for Merrill Lynch Mortgage Investors Trust, Mortgage Loan Asset-Backed Certificates, Series 2007-SD1 (hereinafter "Secured Creditor"), a secured creditor in the above-captioned bankruptcy case, by its counsel, GROSS POLOWY, LLC, as and for a Motion for Relief from Automatic Stay pursuant to 11 U.S.C. §362(d) or, in the alternative, for adequate protection, states the following as grounds therefor:

I, Julie A Cascino, Esq., am an associate with the law firm of Gross Polowy, LLC attorneys for Nationstar Mortgage, LLC d/b/a Mr. Cooper as servicing agent for U.S. Bank

National Association, as Trustee, for Merrill Lynch Mortgage Investors Trust, Mortgage Loan Asset-Backed Certificates, Series 2007-SD1. I am familiar with the facts and circumstances set forth in this Certification by review of the account statements provided by Secured Creditor. I certify under penalty of perjury that the following facts are true and correct:

1. Secured Creditor is the holder of a note executed by John Rothenberger on or about the 16th day of November, 2005 in the principal amount of \$425,000.00 and interest (the "Note"), secured by a mortgage bearing even date therewith executed by John Rothenberger and Bonnie Rothenberger, which is recorded in the Office of the Essex County Register as Instrument Number 5177593 on the 1st day of December, 2005 in Book 10902 of Mortgages at Page 293 (the "Mortgage") covering the premises commonly known as 26 Ridgewood Avenue, Glen Ridge, NJ 07028 (the "Mortgaged Premises"). A copy of the Note, Mortgage, Assignment, and Loan Modification is annexed hereto as **Exhibit "A"**. The recorded assignment of mortgage uses an abbreviated name of the Merrill Lynch Mortgage Investors Trust but uses the correct name of the trust and the certificate series.

2. Debtor filed a petition for relief under Chapter 13 of the United States Bankruptcy Code in this Court on November 12, 2019.

3. A true and accurate copy of Secured Creditor's Certification Regarding the Post-Petition Payment History and / or Certification of Creditor Regarding Calculation of Amount Due is attached hereto as **Exhibit "B"**.

4. As reflected in the Certification of Secured Creditor, the aforementioned Note and Mortgage have been in default and remain in default. The Calculation of Amounts Due of the Secured Creditor reflects that the total indebtedness of \$1,068,537.78 as due and owing.

5. The value of the property is set forth as \$492,000.00 as reflected on the Broker's Price Opinion attached hereto as **Exhibit "C"**.

6. Secured Creditor's security interest in the subject property is being jeopardized by Debtor's failure to comply with the terms of the subject loan documents. Secured Creditor has no protection against the erosion of its collateral position and no other form of adequate protection is provided. If Secured Creditor is not permitted to enforce its security interest in the collateral or is not provided with adequate protection, it will suffer irreparable injury, loss, and damage.

7. Based upon the Debtor's Chapter 13 Plan, the Secured Creditor's claim will be paid as follows: Debtor is to pay the Trustee (as part of the Plan) allowed claims for arrearages on monthly obligations and the Debtor shall pay to the Creditor (outside the Plan) monthly obligations due after the bankruptcy filing.

1. There exists a co-obligor named John Rothenberger on the underlying obligation to the Secured Creditor. Pursuant to 11 U.S.C. §1301(c), the Secured Creditor hereby respectfully requests relief from co-debtor stay as expressed in 11 U.S.C. §1301(a) to the extent it applies to the co-obligor. In support of said request, it is respectfully submitted that the co-obligor received consideration for the claim held by the secured creditor at least in the form of money loaned by the Secured Creditor. Furthermore, it is respectfully submitted that the continuation of the co-debtor stay would irreparably harm the Secured Creditor in the absence of post-petition mortgage payments.

8. Secured Creditor respectfully requests the Court grant it relief from the Automatic Stay pursuant to §362(d)(1) of the Bankruptcy Code, for cause, due to the lack of adequate protection to Secured Creditor with regard to its interest in the above stated collateral. The value

of the collateral is insufficient in and of itself to provide for adequate protection as required by the Code. Secured Creditor additionally seeks relief from the Automatic Stay pursuant to §362(d)(2), as the collateral is unnecessary to an effective reorganization of the Debtor's assets.

9. Nationstar Mortgage, LLC d/b/a Mr. Cooper as servicing agent for U.S. Bank National Association, as Trustee, for Merrill Lynch Mortgage Investors Trust, Mortgage Loan Asset-Backed Certificates, Series 2007-SD1 also seeks relief for any installment that becomes due and is unpaid on the return date of this Motion. The foregoing does not represent any amount which may be due for costs and attorney fees which may be allowed by the Court.

10. Nationstar Mortgage, LLC d/b/a Mr. Cooper as servicing agent for U.S. Bank National Association, as Trustee, for Merrill Lynch Mortgage Investors Trust, Mortgage Loan Asset-Backed Certificates, Series 2007-SD1 may be required to advance the funds necessary to pay real property taxes or risk irreparable harm to its security interest as a result of Debtors default.

11. In the event a foreclosure proceeding is commenced and the real property is sold at foreclosure sale, the Chapter 13 Trustee shall receive notice of any surplus funds.

12. By reason of the foregoing, Nationstar Mortgage, LLC d/b/a Mr. Cooper as servicing agent for U.S. Bank National Association, as Trustee, for Merrill Lynch Mortgage Investors Trust, Mortgage Loan Asset-Backed Certificates, Series 2007-SD1, its servicing agent, nominees, successors and/or assigns should be permitted to take all necessary action to adequately protect its security interest.

13. It is requested that, in the event that an Order Granting Relief from the Automatic Stay is granted, that such Order shall survive any conversion.

14. Nationstar Mortgage, LLC d/b/a Mr. Cooper as servicing agent for U.S. Bank National Association, as Trustee, for Merrill Lynch Mortgage Investors Trust, Mortgage Loan Asset-Backed Certificates, Series 2007-SD1 specifically requests permission from the Honorable court to communicate with the Debtor and Debtor's attorneys to the extent necessary to comply with applicable non-bankruptcy law.

15. Pursuant to D.N.J. LBR 9013-1(a)(3), it is respectfully submitted that no legal brief or memorandum of law is necessary in the court's consideration of this motion, as it does not involve complex issues of law and the issues raised by the Motion are not extraordinary or unusual necessitating the filing of legal briefs.

16. No previous application has been made for the relief requested herein.

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WHEREFORE, Nationstar Mortgage, LLC d/b/a Mr. Cooper as servicing agent for U.S. Bank National Association, as Trustee, for Merrill Lynch Mortgage Investors Trust, Mortgage Loan Asset-Backed Certificates, Series 2007-SD1 requests that this Court enter an Order granting Secured Creditor, its servicing agent, nominees, successors and/or assigns relief from the automatic stay, together with Secured Creditor's fees, and Secured Creditor's be granted permission to communicate with the Debtor and Debtor's counsel to the extent necessary to comply with applicable non-bankruptcy law, and such other and further relief as the Court may deem just and proper.

DATED: March 6, 2020

Nationstar Mortgage, LLC d/b/a Mr. Cooper
as servicing agent for U.S. Bank National
Association, as Trustee, for Merrill Lynch
Mortgage Investors Trust, Mortgage Loan
Asset-Backed Certificates, Series 2007-SD1

/s/ Julie A. Cascino, Esq.

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